

AMENDED IN ASSEMBLY APRIL 18, 2012

AMENDED IN ASSEMBLY MARCH 20, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1928

Introduced by Assembly Member Cook

February 22, 2012

An act to *amend Sections 17710, 17730, and 17732 of, and to add Section 17732.2 to, the Welfare and Institutions Code, relating to foster care.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1928, as amended, Cook. Foster homes: residential capacity.

The California Community Care Facilities Act provides for the licensing and regulation of community care facilities, including, among others, foster family homes, small family homes, and foster family agencies, as defined. Under existing law, a violation of the act is a misdemeanor.

Existing law limits foster family homes and small family homes to 6 or fewer foster children, but allows a licensing agency to increase that limit to 8 foster children under specified circumstances. Existing regulations of the State Department of Social Services require that these licensing agencies include biological, adoptive, and guardianship children in the number of children for whom these homes are licensed to provide care and supervision. Existing law also requires the licensing agency to take into consideration how many children, in addition to the children already living in the home, the caregiver is capable of providing care and supervision to and that the home can accommodate.

Under existing law, the State Department of Social Services is required to develop a program to establish specialized foster care homes for children with special health care needs. No more than 2 foster care children are permitted to reside in a specialized foster care home, except that an additional foster child, or children, may be permitted if specified conditions are met.

~~This bill would specify that the maximum licensed capacity for a specialized foster care home is 2 foster children, with or without special health care needs, and that up to 4 biological or adoptive children, or children in guardianship, may also reside on the premises. The bill would specify further that a specialized foster care home would be approved for an additional foster child or children only to the extent that the total number of children in the home, including foster, biological, or adoptive children, and children in guardianship, on the premises does not exceed 6, in determining the licensed capacity of a specialized foster care home, the State Department of Social Services shall consider all adoptive, biological, and foster children, and children in guardianship living in the home, in order not to exceed a total of 6 children living in the home. The bill also would make conforming and technical changes.~~

~~The bill would authorize the department to implement its provisions through all-county letters or similar instructions from the Director of Social Services.~~

This bill would state that its provisions are declaratory of existing law.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 17710 of the Welfare and Institutions
- 2 Code is amended to read:
- 3 17710. Unless otherwise specified in this part:
- 4 (a) “Child with special health care needs” means a child, or a
- 5 person who is 22 years of age or younger who is completing a
- 6 publicly funded education program, who has a condition that can
- 7 rapidly deteriorate resulting in permanent injury or death or who
- 8 has a medical condition that requires specialized in-home health
- 9 care, and who either has been adjudged a dependent of the court
- 10 pursuant to Section 300, has not been adjudged a dependent of the

1 court pursuant to Section 300 but is in the custody of the county
2 welfare department, or has a developmental disability and is
3 receiving services and case management from a regional center.

4 (b) "County" means the county welfare department.

5 (c) "Department" means the State Department of Social
6 Services.

7 (d) "Individualized health care plan team" means those
8 individuals who develop a health care plan for a child with special
9 health care needs in a specialized foster care home, as defined in
10 subdivision (i) or group home, which shall include the child's
11 primary care physician or other health care professional designated
12 by the physician, any involved medical team, and the county social
13 worker or regional center worker, and any health care professional
14 designated to monitor the child's individualized health care plan
15 pursuant to paragraph (8) of subdivision (c) of Section 17731,
16 including, if the child is in a certified home, the registered nurse
17 employed by or under contract with the certifying agency to
18 supervise and monitor the child. The child's individualized health
19 care plan team may also include, but shall not be limited to, a
20 public health nurse, representatives from the California Children's
21 Services Program or the Child Health and Disability Prevention
22 Program, regional centers, the county mental health department
23 and where reunification is the goal, the parent or parents, if
24 available. In addition, ~~where~~ *if* the child is in a specialized foster
25 care home, the individualized health care plan team may include
26 the prospective specialized foster parents, who shall not participate
27 in any team decision pursuant to paragraph (6) of subdivision (c)
28 of Section 17731 or pursuant to ~~paragraph (3) of subdivision (a),~~
29 ~~or subparagraph (A) of paragraph (2) of subdivision (b)~~
30 *subparagraph (C) of paragraph (1) of subdivision (a), or clause*
31 *(ii) of subparagraph (B) of paragraph (2) of subdivision (a), of*
32 Section 17732.

33 (e) "Director" means the Director of Social Services.

34 (f) "Level of care" means a description of the specialized
35 in-home health care to be provided to a child with special health
36 care needs by the foster family.

37 (g) Medical conditions requiring specialized in-home health
38 care require dependency upon one or more of the following: enteral
39 feeding tube, total parenteral feeding, a cardiorespiratory monitor,
40 intravenous therapy, a ventilator, oxygen support, urinary

1 catheterization, renal dialysis, ministrations imposed by
2 tracheostomy, colostomy, ileostomy, or other medical or surgical
3 procedures or special medication regimens, including injection,
4 and intravenous medication.

5 (h) “Specialized in-home health care” includes, but is not limited
6 to, those services identified by the child’s primary physician as
7 appropriately administered in the home by any one of the
8 following:

9 (1) A parent trained by health care professionals where the child
10 is being placed in, or is currently in, a specialized foster care home.

11 (2) Group home staff trained by health care professionals
12 pursuant to the discharge plan of the facility releasing the child
13 where the child was placed in the home as of November 1, 1993,
14 and who is currently in the home.

15 (3) A health care professional, where the child is placed in a
16 group home after November 1, 1993. The health care services
17 provided pursuant to this paragraph shall not be reimbursable costs
18 for the purpose of determining the group home rate under Section
19 11462.

20 (i) “Specialized foster care home” means any of the following
21 foster homes where the foster parents reside in the home and have
22 been trained to provide specialized in-home health care to foster
23 children:

24 (1) Licensed foster family homes, as defined in paragraph (5)
25 of subdivision (a) of Section 1502 of the Health and Safety Code.

26 (2) Licensed small family homes, as defined in paragraph (6)
27 of subdivision (a) of Section 1502 of the Health and Safety Code.

28 (3) Certified family homes, as defined in subdivision (d) of
29 Section 1506 of the Health and Safety Code, that have accepted
30 placement of a child with special health care needs who is under
31 the supervision and monitoring of a registered nurse employed by,
32 or on contract with, the certifying agency, and who is either of the
33 following:

34 (A) A dependent of the court under Section 300.

35 (B) Developmentally disabled and receiving services and case
36 management from a regional center.

37 *SEC. 2. Section 17730 of the Welfare and Institutions Code is*
38 *amended to read:*

39 17730. The department shall develop a program to establish
40 specialized foster care homes for children with special health care

needs with persons specified in subdivision (h) of Section 17710. The department shall limit the use of group homes for children with special health care needs pursuant to subdivisions (c) and (d) and ~~(e)~~ of Section 17732. The program shall conform to the requirements set forth in this chapter, and shall be integrated with the foster care and child welfare services programs authorized by Article 5 (commencing with Section 11400) of Chapter 2 of Part 3 and Chapter 5 (commencing with Section 16500) of Part 4.

The department, in administering the licensing program, shall not evaluate or have any responsibility for the evaluation of the in-home health care provided in specialized foster care homes or group homes.

This program shall be conducted by county welfare departments in conformance with procedures established by the department in accordance with this chapter.

SEC. 3. Section 17732 of the Welfare and Institutions Code is amended to read:

17732. (a) No more than two foster-care children with specialized health care needs shall reside in a specialized foster care home with the following exceptions:

~~(a)~~

(1) A specialized foster care home may have a third foster child with or without special health care needs placed in that home provided that the licensed capacity, as determined by the department pursuant to paragraph (6) of subdivision (a) of Section 1502 of the Health and Safety Code is not exceeded and provided that all of the following conditions have been met:

~~(1)~~

(A) The child's placement worker has determined and documented that no other placement is available.

~~(2)~~

(B) For each child in placement and the child to be placed, the child's placement worker has determined that his or her psychological and social needs will be met by placement in the home and has documented that determination. New determinations shall be made and documented each time there is an increase or turnover in foster care children and the two-child capacity limit is exceeded.

~~(3)~~

(C) The individualized health care plan team responsible for the ongoing care of each child with special health care needs involved has *considered the number of adoptive, biological, and foster children, and children in guardianship living in the home* and determined that the two-child limit may be exceeded without jeopardizing the health and safety of that child, and has documented that determination. New determinations shall be made and documented each time there is an increase or turnover in foster care children and the two-child capacity limit is exceeded.

~~(b)~~

(2) A licensed small family home, but not a certified home, may exceed the *two-child* placement limit ~~specified in subdivision (a)~~ and accept children with or without special health care needs up to the licensed capacity as determined by the department pursuant to paragraph (6) of subdivision (a) of Section 1502 of the Health and Safety Code if the conditions in ~~subdivision (a)~~ *paragraph (1)* have been met for both the third *foster* child and each *foster* child placed thereafter, and the following additional conditions have been met:

~~(1)~~

(A) At least one of the children in the facility is a regional center client monitored in accordance with Section 56001 and following of Title 17 of the California Code of Regulations.

~~(2)~~

(B) Whenever four or more foster care children are physically present in the facility, the licensee of the small family home has the assistance of a caregiver to provide specialized in-home health care to the children except that:

~~(A)~~

(i) Night assistance shall not be required for those hours that the individualized health care plan team for each child with special health care needs has documented that the child will not require specialized medical services during that time.

~~(B)~~

(ii) The department may determine that additional assistance is required to provide appropriate care and supervision for all children in placement. The determination shall only be made after consultation with the appropriate regional center and any appropriate individual health care teams.

~~(3)~~

1 (iii) On-call assistance is available at all times to respond in
2 case of an emergency. The on-call assistant shall meet the
3 requirements of paragraph (5) of subdivision (c) of Section 17731.

4 ~~(4)~~

5 (iv) The home is sufficient in size to accommodate the needs
6 of all children in the home.

7 ~~(e)~~

8 (b) Notwithstanding Section 1523 of the Health and Safety
9 Code, a foster family home which has more than three children
10 with special health care needs in its care as of January 1, 1992,
11 and which applies for licensure as a small family home in order
12 to continue to provide care for those children, shall be exempt
13 from the application fee.

14 ~~(d)~~

15 (c) Except for children with special health care needs placed in
16 group homes before January 1, 1992, no child with special health
17 care needs may be placed in any group home or combination of
18 group homes for longer than a short-term placement of 120
19 calendar days. The short-term placement in the group home shall
20 be on an emergency basis for the purpose of arranging a subsequent
21 placement in a less restrictive setting, such as with the child's
22 natural parents or relatives, with a foster parent or foster family
23 agency, or with another appropriate person or facility. The 120-day
24 limitation shall not be extended, except by the approval of the
25 director or his or her designee. For children placed after January
26 1, 1992, the 120-day limitation shall begin on the effective date
27 of the amendments to this section made during the 1993 portion
28 of the 1993–94 Regular Session.

29 ~~(e)~~

30 (d) A child with special health care needs shall not be placed
31 in a group home unless the child's placement worker has
32 determined and documented that the group home has a program
33 that meets the specific needs of the child being placed and there
34 is a commonality of needs with the other children in the group
35 home.

36 (e) *The Legislature finds and declares that the amendments to*
37 *this section made by the act that added this subdivision are*
38 *declaratory of existing law.*

1 SECTION 1.

2 SEC. 4. Section 17732.2 is added to the Welfare and Institutions
3 Code, to read:

4 17732.2. (a) ~~Subject to subdivision (b), the maximum licensed~~
5 ~~capacity for a specialized foster care home shall be two foster~~
6 ~~children, with or without special health care needs. In addition, up~~
7 ~~to four biological or adoptive children, or children in guardianship,~~
8 ~~may reside on the premises, for a total of six children. In~~
9 ~~determining the licensed capacity of a specialized foster care home,~~
10 ~~the department shall consider all adoptive, biological, and foster~~
11 ~~children, and children in guardianship living in the home, in order~~
12 ~~not to exceed a total of six children living in the home.~~

13 ~~(b) A specialized foster care home shall be approved for~~
14 ~~additional foster child or children pursuant to subdivision (a) or~~
15 ~~(b) of Section 17332, only to the extent that the total number of~~
16 ~~children in the home, including foster, biological or adoptive~~
17 ~~children, and children in guardianship on the premises, does not~~
18 ~~exceed six.~~

19 ~~(c) Notwithstanding the rulemaking provisions of the~~
20 ~~Administrative Procedure Act (Chapter 3.5 (commencing with~~
21 ~~Section 11340) of Part 1 of Division 3 of Title 2 of the Government~~
22 ~~Code), the department may implement and administer the changes~~
23 ~~made by this act through all-county letters or similar instructions~~
24 ~~from the director.~~

25 ~~(d)~~

26 (b) The Legislature finds and declares that this section is
27 declaratory of existing law.